

***RULE 302. Right to Practice After Admission; Maintenance of Membership.** Following admission as a member of the Idaho State Bar, an attorney may maintain membership in the Bar as follows:

*(a) **Active Member.** The right to engage in the active practice of law in the State of Idaho, after admission, shall be dependent upon:

*(1) Payment of the annual license fee required by Rule 303; and

*(Section (1) amended 6-10-98 - effective 7-1-98)

(2) Establishment of a trust account in a financial institution in the state of Idaho for the safekeeping of the monies and properties of the member's Idaho clientele.

(A) All trust accounts maintained by members of the Idaho State Bar shall be clearly identified as such

(i) Lawyers who practice in Idaho shall deposit all funds held in trust in this jurisdiction in accordance with Rule 1.15(a) of the Idaho Rules of Professional Conduct in accounts clearly identified as "trust" or "escrow" accounts, referred to herein as "trust accounts", and shall take all steps necessary to inform the depository institution of the purpose and identity of such accounts.

(ii) Funds held in trust include funds held in any fiduciary capacity, whether as trustee, agent, guardian, executor or otherwise. Attorney trust accounts shall be maintained only in financial institutions approved by the Idaho Supreme Court or the Idaho State Bar.

(B) As a condition of licensing, all active members shall be required to consent to disclosure of trust account overdrafts.

(i) Because the consent of depositors is required to permit financial institutions to comply with this Rule, every lawyer practicing or admitted to practice in Idaho shall, as a condition thereof, be required to consent to the reporting and production requirements mandated by this Rule.

(ii) Consent shall be acknowledged as part of every lawyer's annual licensing form.

(iii) Lawyers practicing in Idaho by virtue of Rule 221, Rule 222, or under any other authority which does not require completion of the annual licensing form shall be deemed to have given their implied consent to the requirements of this rule as condition of their right to practice in Idaho.

(C) Financial institutions acting as depositories for trust accounts shall be required to consent to provide notification.

(i) A financial institution shall be approved as a depository of attorney trust accounts if it shall file with the Idaho State Bar an agreement, in a form provided by the Bar, to report to Bar Counsel in the event any properly payable instrument is presented against an attorney trust account containing funds insufficient to honor the instrument in full, irrespective of whether or not the instrument is honored.

(ii) The Supreme Court shall establish rules governing approval and termination approved status for financial institutions, and the Bar shall annually publish a list of approved financial institutions.

(iii) No trust account shall be maintained in any financial institution which does not agree to make such reports. Any such agreement shall apply to all branches of

the financial institution and shall not be canceled except upon [30] days notice in writing to the Idaho State Bar.

(D) The overdraft notification agreement shall provide that all reports made by the financial institution shall be in the following format:

- (i) In the case of a dishonored instrument, the report shall be identical to the overdraft notice customarily forwarded to the depositor.
- (ii) In the case of instruments that are presented against insufficient funds but which instruments are honored, the report shall identify the financial institution, the attorney or law firm, the account number, the date of presentation for payment and the date paid, as well as the amount of overdraft created thereby.
- (iii) Such reports shall be made simultaneously with, and within the time provided by law for notice of dishonor, if any. If an instrument presented against insufficient funds is honored, then the report shall be made within [5] banking days of the date of presentation for payment against insufficient funds.

(E) Nothing herein shall preclude a financial institution from charging a particular attorney or law firm for the reasonable cost of producing the reports and records required by this rule.

(F) Any disclosure made pursuant to this Rule shall be subject to the confidentiality requirements of Rule 521.

*(G) As used in the above subsections, the following definitions apply:

- (i) "Financial institution" - includes any bank, savings and loans association, credit union, savings bank or other entity, located within the state of Idaho, which accepts for deposit funds in accounts in which the principal is not at risk. Money deposited in such accounts must be fully insured by federal depositor insurance, including but not limited to FDIC, FSLIC, NCUA, or SIPC.
- (ii) "Properly payable" - refers to an instrument which, if presented in the normal course of business, is in a form requiring payment under laws of Idaho.
- (iii) "Notice of dishonor" - refers to the notice which a financial institution is required to give, under the laws of this jurisdiction, upon presentation of an instrument which the institution dishonors.

**(Section (G) amended 3-31-00)*

(3) Provision of a certificate of maintenance of trust account as required by the Idaho Rules of Professional Conduct; and

(4) Compliance with the requirements of Rule 402 or Rule 410 relating to continuing legal education; and

(5) Active members who are not residents of the State of Idaho shall be required to file with the Office of Bar Counsel of the Idaho State Bar the name and address of an agent within this state for the purpose of receiving service of process or any other document intended for the lawyer as a party, arising from the lawyer's practice of law. Service or delivery to such agent shall be deemed service upon or delivery to the lawyer. Nothing in this section is intended to conflict with service of process provisions set forth in the *Idaho Rules of Civil Procedure*; and

*(6) Completion of the practical skills seminar, as set forth by Rule 402(f).

**(Section (6) added as then Section (8) 2-13-92 - Effective 7-1-92.*

*(7) **Disclosure of Professional Liability Insurance.** Each lawyer admitted to the active practice of law shall certify to the Idaho State Bar on or before February 1 of each year

(1) whether the lawyer represents private clients; (2) if the lawyer represents private clients, whether the lawyer is currently covered by professional liability insurance; and (3) whether the lawyer intends to maintain insurance during the next twelve months. Each lawyer admitted to the active practice of law in this jurisdiction who reports being covered by professional liability insurance shall identify the primary carrier and shall notify the Idaho State Bar in writing within 30 days if the insurance policy providing coverage lapses, is no longer in effect, or terminates for any reason, unless the policy is renewed or replaced without substantial interruption.

**(Section (7) added 6-5-06 – Effective 10-1-06)*

**(Section (a) amended 2-7-97 - Effective 7-1-97.)*

***(b) Affiliate Member.** A member of the Idaho State Bar who indicates he or she will not meet the requirements for active membership during the current licensing year may maintain an affiliate membership by payment of the annual membership fee as required by Rule 303.

**(Section (b) amended 6-10-98 - effective 7-1-98)*

(c) House Counsel. A person to whom a house counsel license has been issued may maintain such license by meeting the requirements established by Subsection (a) of this Rule.

***(d) Emeritus Member.** A person who meets the requirements of IBCR 223 may maintain an emeritus membership by payment of the annual membership fee as required by Rule 303.

**(Section (d) 6-10-98 - effective 7-1-98)*

(e) Inactive Member. Any member of the Idaho State Bar who advises the Idaho State Bar, in writing, that he or she does not intend to meet the licensing requirements for the current licensing year, or who fails to meet the licensing requirements for the current licensing year shall be considered an inactive member of the Bar.

**(Rule 302 rescinded and replaced 3-15-90)*